



DEPARTMENT OF EDUCATION

[Docket No.: ED-2022-SCC-0131]

**Agency Information Collection Activities; Comment Request; Form for Maintenance of Effort Waiver Requests**

**AGENCY:** Office of Elementary and Secondary Education (OESE), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

**DATES:** Interested persons are invited to submit comments on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2022-SCC-0131. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, ED will temporarily accept comments at [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or e-mail and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave, SW, LBJ, Room 6W208D, Washington, D.C. 20202-8240.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Todd Stephenson, 202-205-1645.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Form for Maintenance of Effort Waiver Requests

*OMB Control Number:* 1810-0693

*Type of Review:* An extension without change of a currently approved collection

*Respondents / Affected Public:* State, Local, and Tribal Governments

*Total Estimated Number of Annual Responses:* 20

*Total Estimated Number of Annual Burden Hours:* 1,600

*Abstract:* Section 8521(a) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA) provides that a local educational

agency (LEA) may receive funds under Title I, Part A and other ESEA “covered programs” for any fiscal year only if the State educational agency (SEA) finds that either the combined fiscal effort per student or the aggregate expenditures of the LEA and the State with respect to the provision of free public education by the LEA for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year. This provision is the maintenance of effort (MOE) requirements for LEAs under the ESEA. If an LEA fails to meet the MOE requirement, under section 8521(b) of the ESEA, the SEA must reduce the amount of funds allocated under the programs covered by the MOE requirement in any fiscal year in the exact proportion by which the LEA fails to maintain effort by falling below 90 percent of either the combined fiscal effort per student or aggregate expenditures, if the LEA has also failed to maintain effort for 1 or more of the 5 immediately preceding fiscal years. In reducing an LEA’s allocation because it failed to meet the MOE requirement, the SEA uses the measure most favorable to the LEA. Section 8521(c) gives the U.S. Department of Education (ED) the authority to waive the ESEA's MOE requirement for an LEA if it would be equitable to grant the waiver due to an exceptional or uncontrollable circumstance such as a natural disaster or a change in the organizational structure of the LEA or a precipitous decline in the LEA's financial resources. If an MOE waiver is granted, the reduction required by section 8521(b) does not occur for that year. A request for a waiver of the MOE requirement is discretionary. Only an LEA that has failed to maintain effort and that believes its failure justifies a waiver would request one. To review an MOE waiver request, ED relies primarily on expenditure, revenue, and other data relevant to an LEA’s request provided by the SEA. To assist an SEA with submitting this information, ED developed an MOE waiver form as part of the 2009 Title I, Part A Waiver Guidance, which covered a range of waivers that ED invited at that

time. The purpose of this request is to renew approval for the MOE waiver form. This collection includes burden at the SEA level.

Dated: October 18, 2022.

**Kun Mullan,**

*PRA Coordinator,*

*Strategic Collections and Clearance*

*Governance and Strategy Division,*

*Office of Chief Data Officer,*

*Office of Planning, Evaluation and Policy Development.*

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